

Assembly Bill No. 2849

CHAPTER 1100

An act to amend Sections 45103 and 45256 of the Education Code, relating to classified school employees.

[Approved by Governor September 29, 2002. Filed with Secretary of State September 29, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2849, Washington. Classified school employees.

(1) Existing law requires the governing board of a school district or the personnel commission in a school district that has adopted the merit system to classify all employees and positions not requiring certification qualifications. These employees and positions are known as the classified service. Existing law exempts part-time playground positions from the classified service.

This bill would instead provide that part-time playground positions are not part of the classified service unless the employee in the position is otherwise employed in a classified position. The bill would also prohibit a school district from reducing the hours of, or terminating, as a result of the implementation of the bill, a classified employee who was assigned to a part-time playground position.

(2) This bill would incorporate additional changes to Section 45103 of the Education Code proposed by AB 500, to be operative only if this bill and AB 500 are both enacted and become effective on or before January 1, 2003, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that, by granting classified service status to employees who serve in part-time playground positions and who also work in the same school district in a classified position, parents and guardians who volunteer in playground positions are not discouraged from volunteering.

SEC. 2. Section 45103 of the Education Code is amended to read:

45103. (a) The governing board of any school district shall employ persons for positions not requiring certification qualifications. The governing board shall, except where Article 6 (commencing with Section 45240) or Section 45318 applies, classify all of these employees and positions. The employees and positions shall be known as the classified service.

(b) (1) Substitute and short-term employees, employed and paid for less than 75 percent of a school year, shall not be a part of the classified service.

(2) Apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment, shall not be a part of the classified service.

(3) Full-time students employed part time, and part-time students employed part time in any college workstudy program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 and that is financed by state or federal funds, shall not be a part of the classified service.

(4) Part-time playground positions shall not be a part of the classified service, where the employee is not otherwise employed in a classified position. Part-time playground positions shall be considered a part of the classified service when the employee in the position also works in the same school district in a classified position.

(c) As used in this section:

(1) “Substitute employee” means any person employed to replace any classified employee who is temporarily absent from duty. In addition, if the district is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the governing board may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

(2) “Short-term employee” means any person who is employed to perform a service for the district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis.

(3) “Seventy-five percent of a school year” means 195 working days, including holidays, sick leave, vacation and other leaves of absence, irrespective of number of hours worked per day.

(d) Employment of either full-time or part-time students in any college workstudy program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

(e) This section shall apply only to districts not incorporating the merit system as outlined in Article 6 (commencing with Section 45240).

SEC. 2.5. Section 45103 of the Education Code is amended to read:

45103. (a) The governing board of any school district shall employ persons for positions not requiring certification qualifications. The governing board shall, except where Article 6 (commencing with



Section 45240) or Section 45318 applies, classify all of these employees and positions. The employees and positions shall be known as the classified service.

(b) (1) Substitute and short-term employees, employed and paid for less than 75 percent of a school year, shall not be a part of the classified service.

(2) Apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment, shall not be a part of the classified service.

(3) Full-time students employed part time, and part-time students employed part time in any college workstudy program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 and that is financed by state or federal funds, shall not be a part of the classified service.

(4) Part-time playground positions shall not be a part of the classified service, where the employee is not otherwise employed in a classified position. Part-time playground positions shall be considered a part of the classified service when the employee in the position also works in the same school district in a classified position.

(c) Unless otherwise permitted, a person whose position does not require certification qualifications shall not be employed by a governing board, except as authorized by this section.

(d) As used in this section:

(1) “Substitute employee” means any person employed to replace any classified employee who is temporarily absent from duty. In addition, if the district is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the governing board may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

(2) “Short-term employee” means any person who is employed to perform a service for the district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis. Before employing a short-term employee, the governing board, at a regularly scheduled board meeting, shall specify the service required to be performed by the employee pursuant to the definition of “classification” in subdivision (a) of Section 45101, and shall certify the ending date of the service. The ending date may be shortened or extended by the governing board, but shall not extend beyond 75 percent of a school year.



(3) “Seventy-five percent of a school year” means 195 working days, including holidays, sick leave, vacation and other leaves of absence, irrespective of number of hours worked per day.

(e) Employment of either full-time or part-time students in any college workstudy program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

(f) This section shall apply only to districts not incorporating the merit system as outlined in Article 6 (commencing with Section 45240).

SEC. 3. Section 45256 of the Education Code is amended to read:

45256. (a) The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those that are exempt from the classified service, as specified in subdivision (b). The employees and positions shall be known as the classified service. “To classify” shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications.

(b) All of the following are exempt from the classified service:

(1) Positions which require certification qualifications.

(2) Full-time students employed part time.

(3) Part-time students employed part time in any college workstudy program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 and that is financed by state or federal funds.

(4) Apprentice positions.

(5) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

(6) Part-time playground positions, where the employee is not otherwise employed in a classified position. Part-time playground positions shall be considered part of the classified service when the employee in the position also works in the same school district in a classified position.

(c) (1) Employment of either full-time or part-time students in any college workstudy program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

(2) Nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary



reduction in time and retaining his or her regular status under the provisions of this law.

(d) No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

(e) A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than $87\frac{1}{2}$ percent of the normally assigned time of the majority of employees in the classified service.

SEC. 4. A school district shall not reduce the hours of, or terminate, as a result of the implementation of this act, a classified employee who was assigned to a part-time playground position.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 45103 of the Education Code proposed by both this bill and AB 500. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 45103 of the Education Code, and (3) this bill is enacted after AB 500, in which case Section 2 of this bill shall not become operative.

